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H. Carl McCall
STATE COMPTROLLER

STATE UNIVERSITY OF NEW YORK
INSTITUTE FOR ENTREPRENEURSHIP

FINANCIAL PRACTICES, PROGRAM RESULTS AND ONGOING OPERATIONS

2001-S-46

DIVISION OF MANAGEMENT AUDIT AND
STATE FINANCIAL SERVICES

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H. Carl McCall
STATE COMPTROLLER

Report 2001-S-46

Mr. Robert King
Chancellor
State University of New York
State University Plaza
Albany, NY 12246

Dear Mr. King:

The following is our audit report addressing the financial practices of the Institute for Entrepreneurship for the period August 1, 1998 through June 30, 2001. This report also addressed the Institute's program results for the period August 1, 1998 through March 31, 2002 and the efficiency of its ongoing operations from July 1, 2001 through March 31, 2002.

A copy of this audit report is also being provided to the present members of the Board of Directors of the Institute for Entrepreneurship since the scope of our audit is relevant to their governance of the Institute.

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law. Major contributors to this report are listed in Appendix A.

cc: Mr. William Ferrero, Institute Board Member
Mr. Jeffrey Pfeil, Institute Board Member
Mr. Joseph Magno, Institute Board Member

Office of the State Comptroller
Division of Management Audit
and State Financial Services

October 23, 2002

EXECUTIVE SUMMARY

STATE UNIVERSITY OF NEW YORK

INSTITUTE FOR ENTREPRENEURSHIP: FINANCIAL PRACTICES, PROGRAM RESULTS AND ONGOING OPERATIONS

SCOPE OF AUDIT

The State University of New York (SUNY) created the Institute for Entrepreneurship (Institute) in 1993 but the Institute was dormant until August of 1998 when it became the beneficiary of its first grant. As an affiliate of SUNY's Empire State College (College), the Institute was expected to support small business and entrepreneurial efforts through research and through development of academic, certificate and degree programs. From August 1998 through June 30, 2001, the Institute's available funding consisted of about $8 million: $4.7 million from federal grants, $2.2 million from State grants, $424,000 in donations and contributions and almost $675,000 in State appropriations from the College for five of the Institute's 20 staff positions. Of the $8 million available, about $5.3 million was expended during the period.

On July 6, 2001, as a result of alleged financial irregularities involving the Institute, SUNY officials asked the Institute's Executive Director to resign. At the same time, SUNY officials asked the Research Foundation for the State University of New York (a not-for-profit entity that administers grants on behalf of SUNY institutions) to audit the Institute's financial records, and asked the Office of the State Inspector General to conduct an investigation into the affairs of the Institute. Our audit examined the Institute's financial practices for the period August 1, 1998 through June 30, 2001, program results for the period August 1, 1998 through March 31, 2002, and the efficiency of the Institute's ongoing operations from July 1, 2001 through March 31, 2002. Our audit addressed the following questions:

- Were the Institute's funds and other resources used appropriately?
- Was the Institute successful in achieving its program objectives?
- Was it viable for the Institute to continue operations in the future?

We attempted to secure the cooperation of the New York State Inspector General's Office to coordinate our respective audit and investigation efforts. We were unsuccessful and the State Inspector General's Office has not shared with us any results from its ongoing investigation despite our repeated requests. The results of their investigation would likely be relevant to our audit, especially if the investigation identifies illegal activities or intentions related to our audit findings. We coordinated our examination of financial practices with the audit efforts of the SUNY Research Foundation.

As is our practice on all audits, we requested that SUNY officials provide us with a management representation letter in which officials provide assurance, to the best of their knowledge, concerning the relevance, accuracy and competence of evidence provided to our auditors during the course of our audit. While SUNY officials have always provided such representation letters in connection with our previous audits, they refused to do so for this audit. We consider such refusal to be a limitation on our audit scope and readers of this report should consider the potential effect of this limitation on the findings and conclusions presented in this report.

AUDIT OBSERVATIONS AND CONCLUSIONS

We conclude that Institute officials failed to uphold the public trust. We determined that their lack of fiduciary responsibility for public funds and disregard of taxpayer's interests, have resulted in the considerable use of Institute funds in an improper, questionable, wasteful and/or extravagant manner. We identified about $250,000 of expenses from State grant funds that were clearly improper. Similarly, preliminary results from the SUNY Research Foundation auditors identify about $1 million of improper expenses from federal grants. While the Institute's former Executive Director is primarily accountable for this improper use of funds, we also concluded that other significant factors contributed to this situation. Most notably was the lack of SUNY System Administration oversight, failed governance from the Institute Board of Directors and neglected responsibility by the College "Operations Manager" who was accountable to the SUNY Research Foundation for its corporate and business objectives at the College. Moreover, in an absence of oversight and meaningful accountability, we found that the Institute has minimal program results to show for the $5.3 million in federal, State and private funds that were spent between August 1, 1998 and June 30, 2001. We also concluded that the Institute could not viably continue operations under the structure created by its former Executive Director.

We determined that Institute funds were used for inappropriate purposes, including for the personal benefit of the Executive Director, and for purposes that could not be determined because the reasons for the disbursements were not documented. We found that the Institute billed federal grants for about $333,000, and then also billed these same costs to State grants and, in so doing,

fraudulently certified that the costs had not been billed to any other source. We recommended that SUNY attempt to recover the approximately $250,000 of improper State grant expenses either from the former Executive Director or from liability insurance of the Institute's Board of Directors. We also recommended that SUNY consider legal action against the Institute's former Executive Director (who also served as a member of the Board of Directors of the Institute) to recover improper expenses resulting from his malfeasance. The SUNY Research Foundation auditors indicated that Foundation and federal grant sponsors would need to reach agreement on the amount of disallowed costs to be recovered. Recovery would then be made from the College in accordance a repayment plan. (See pp. 9-18)

We found that, few of the Institute's goals had been achieved, and most either were not achieved or were too vague to evaluate. Moreover, reported program results were sometimes falsified. For example, the Institute's on-line MBA program cost $137,000 in grant funds, but no students signed up for the program and it has been discontinued. However, the Institute's report to the granting agency falsely stated that 30 students had signed up for the program. We found that the lack of accountability for program results is, like the misuse of funds, attributable to failed fiduciary responsibility for public funds and disregard of taxpayers' interests. If the Institute had been expected to achieve clear and meaningful goals, it would have been more difficult for its funds to be used for questionable and unauthorized purposes. We recommend that SUNY establish clear and meaningful goals that specify outputs and outcomes for all major Institute goals, routinely measure the program results, and ensure that results are not misreported. (See pp. 19-22)

After the resignations of the Executive Director, its Chief Financial Officer and other staff in July 2001, the Institute still had a staff of 12 (at an annual cost of about $561,000). We examined the Institute's operations to determine whether it was feasible for the Institute to continue operating with this structure. We found that it is not feasible, because the Institute has more staff than it needs to support its present and foreseeable workload. SUNY announced that a new staffing and organization plan would be implemented by January 31, 2002. However, as of June 2002, SUNY System Administration has yet to make available to us the new staffing and organization plan. Such staffing decisions should avoid waste or inefficiency related to the almost $2.7 million in public grant monies still available for entrepreneurship purposes. We recommend that SUNY immediately develop a staffing plan for the Institute that is commensurate with the Institute's goals and workload. (See pp. 23-25)

COMMENTS OF SUNY OFFICIALS

SUNY officials are essentially in agreement with the finding of this report and found the recommendations useful and constructive.

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INTRODUCTION

Background

The State University of New York (SUNY) Board of Trustees' meeting minutes from December 1993 reflect SUNY's establishment of the Institute for Entrepreneurship (Institute). The Institute was under the auspices of SUNY's Small Business Development Center and its Research and Economic Development Office. The Institute was dormant until August of 1998 when it became the beneficiary of a $1.5 million federal Small Business Administration grant obtained by the SUNY Research Foundation. At that time, the Institute became an affiliate of SUNY's Empire State College (College), and was located at the College's facilities in Saratoga Springs. The Institute was to support small business and entrepreneurial efforts through research and through development of academic, certificate and degree programs.

In accordance with procedures of the SUNY Research Foundation, the College designated an "Operations Manager" to oversee grants. The College named its Vice President for Administration to serve as the "Operations Manager." In accordance with guidelines established by the Research Foundation Board of Directors, the role of the "Operations Manager" is to be responsible to the Foundation Board of Directors for corporate and business administrative activities conducted on the campus. These responsibilities include, but are not limited to: personnel and payroll, purchasing, property control, application processing, grant and contract negotiation and execution, account establishment, fiscal reporting, billings and collections, and technology transfer.

In January 1999, the Institute relocated to Albany. On March 2, 1999, the College established the Institute as a not-for-profit corporation under Section 501 (C) of the Internal Revenue Code. The Institute 501 (C) 3 corporation was established with a four member Board of Directors. One of the members also served as the Institute's Executive Director and Chief Operations Officer and was paid a State salary by the College. The College's "Operations Manager" (and Vice President for Administration) also served as a Board member. As Vice

President for Administration for the College, this individual also received a State salary. The corporation was to solicit charitable contributions and other funds and provide other benefits to the Empire State College Foundation, Inc. The College Foundation, like others on SUNY campuses, is a not-for-profit corporation organized to be supportive of SUNY programs consistent with SUNY policies and State laws, rules and regulations.

A July 1999 Administrative Services Agreement (Agreement) specified that the College would provide the Institute with support including payroll, budgeting, accounting, revenue management, purchasing and accounts payable services. The Agreement states that these duties and services do not include oversight of the Institute's 501 (C) 3 corporation. The Agreement places responsibility for management of the Institute solely with the Executive Director reporting to the Institute's Board of Directors. On August 4, 1999, the former President of the College wrote a letter to the former Executive Vice Chancellor of SUNY to state several of her understandings, for the record, about relationships between the College, SUNY System Administration, and the Institute and its 501 (C) 3 corporation. Among these understandings were that the College had no supervisory responsibility whatsoever for the Institute or its employees and had no involvement with the "independent 501 (C) 3 corporation." The President's letter also stated her opinion that the Institute reported directly to the SUNY Executive Vice Chancellor and that supervisory responsibility for the Institute resided directly with System Administration. The letter indicated that the 501 (C) 3 corporation should be valuable to the Institute and did not reference any particular problems with the existing relationships.

On August 18, 1999, the Executive Director of the Institute did, in fact, amend the Certificate of Incorporation for the Institute's 501 (C) 3 corporation to make the corporation independent of the College Foundation. The amendment also provided the Institute with the power to solicit and receive grants, bequests and contributions in the furtherance of corporate purposes. The Justice of the Supreme Court in Albany County approved the amended Certificate on October 3, 1999.

From August 1998 through June 30, 2001, the Institute received total funding of about $4,670,000 from federal grants and about $2,219,090 from state grants. In addition, the Institute obtained

about $245,000 in donations from State entities and about $179,000 in private contributions. To obtain State entity donations, the Institute solicited various agency officials to have their agencies attend certain Institute functions and events for a fee. In response, agencies participated and certified State payments to the Institute. Over this same period, the College provided about $675,000 in funding to support payroll costs of 4.5 full-time equivalent Institute staff. As result, total available Institute funding from all sources was about $8 million. Three federal Small Business Administration grants available through the College accounted for $3,925,000 of the funds (this includes the previously discussed initial grant for $1.5 million). A fourth federal grant, this one from the United States Department of Labor, totaled about $575,000 and was obtained by the SUNY Research Foundation's Sponsored Program Office. This grant was subsequently contracted directly to the Institute. A fifth federal grant, which was for $170,000 from the Appalachian Regional Commission, was obtained directly by the Institute. Four State grants totaling $1.4 million from the New York State Office of Science, Technology and Academic Research (NYSTAR), and a fifth State grant for $319,090 from Empire State Development were similarly directly obtained by the Institute. A sixth State grant, which was for $500,000 from the New York State Division of the Lottery, was available to the Institute through the College. Commencing in August of 1999, when the Institute received funds from the various federal and State grants as well as from State entity donations and private contributions, the Institute commingled the receipts into a single checking account that had been established under the Institute's 501 (C) 3 corporation.

Between August of 1998 and June 30, 2001, the Institute's funding supported the following Institute activities and programs:

- **Entreskills Program** - Under this program the Institute worked with the School of Management of the SUNY University Center at Buffalo to develop a web-based, interactive training program in entrepreneurship for students in grades eight through twelve, and then offered the program to a limited number of students in the Spring of 2001.

- **BizTech Program** - This program was a commercial web-based instructional program for teaching entrepreneurship to students in grades eight through twelve. The Institute purchased the rights to use the program, trained certain

teachers in its use and oversaw the efforts of teachers in providing the program to more than 1,200 students in certain areas of the State in 2000 and 2001. The Institute also required internships for some of the students.

- **On-Line MBA Program** - The Institute worked with the School of Management of the SUNY University Center at Buffalo to develop an on-line entrepreneurial related MBA program.

- **Child Care Business Training and Assistance** - The Institute worked with the New York State Department of Labor to help public assistance recipients start child care businesses.

- **Jump Start Grants and Scholarships** - The Institute offered grants or scholarships to aspiring entrepreneurs who resided in New York State. After more than 200 applications were received and evaluated by an independent review committee, the Institute awarded a total of $25,500 in grants or scholarships to 12 individuals.

- **New York State Software Network** - The Institute worked with software companies to promote and support the growth of the software industry in New York State.

- **E-Tours** - To increase awareness of the Institute and help promote entrepreneurship, Institute representatives interviewed successful entrepreneurs under the age of 30. The E-Tours program was to include a televised program of these interviews. Institute representatives also visited colleges and festivals in New York State to promote entrepreneurship and to increase participation in Institute programs.

- **Awareness Campaign** - To increase awareness of the Institute, promotional materials were distributed as part of a variety of initiatives.

- **Annual Celebration** - To promote the Institute, honor Jump Start award recipients and obtain donations, the Institute hosted two catered ceremonies attended by representatives from the public and private sectors.

The $1.4 million of State NYSTAR grants supported the Entreskills, On-Line MBA, Jump Start Awards, New York State Software Network, E-Tours, Awareness Campaign and Annual

Celebrations programs. Funding from the $500,000 Division of the Lottery grant was available for Entreskills. The $319,090 Empire State Development grant and the $170,000 federal Appalachian Regional Commission grant funded Biztech, while the $575,000 federal Department of Labor grant funded the Child Care Training Program. The $3,925,000 of federal Small Business Administration grants supported Institute operating expenses including salaries, rent, website development etc.

On July 6, 2001, the Institute's Executive Director along with his brother, the Institute's Chief Operating Officer, resigned their positions. The Executive Director, a State salaried employee, was requested to resign his position by SUNY. The SUNY Research Foundation asked the Chief Operating Officer to resign as he was paid by the Foundation. The resignations came after the College President and the SUNY System Administration Counsel made inquiry into certain questionable financial transactions executed by the Institute. The Chairperson of the Institute Board also resigned her position. The College President appointed an Interim Executive Director and instructed her to complete existing programs, but not to start new ones. SUNY officials also instructed that the Institute was not to fill any vacancies. At the request of SUNY officials, internal auditors from the SUNY Research Foundation began a financial audit of the Institute. During July 2001, the Office of the State Inspector General initiated an investigation to determine whether there were any potential criminal activities involving the Institute. In August 2001, we announced our audit of the Institute.

Audit Scope, Objectives and Methodology

We audited the financial practices of the Institute for the period August 1, 1998 through June 30, 2001 and we audited the performance and program results of the Institute for the period August 1, 1998 through March 31, 2002. We also audited the efficiency of the Institute's ongoing operations from July 1, 2001 through March 31, 2002. The objectives of our performance audit were to determine whether the Institute used its funds appropriately, was successful in achieving program goals and objectives and was viable to continue operations in the future. To accomplish our objectives we interviewed officials working at the Institute, the College, SUNY System Administration, and the SUNY Research Foundation. We also interviewed members of the Board of Directors of the Institute's

501 (C) 3 corporation and officials of NYSTAR and the New York State Division of the Lottery.

We reviewed various records and guidelines relating to Institute operations, such as the Institute's Employee Handbook; the Executive Director's employment agreement; College payrolls; the Administrative Services Agreement; award documents for 11 State and federal grants; reports to grantor agencies; and the invoices, timesheets, credit card statements and other documentation supporting Institute expenditures funded under the grants. We also observed and recorded the inventory of promotional items on hand at the Institute's Albany offices including brochures, t-shirts, hats, key chains, pens and other products.

We reviewed all available records relating to the Institute's 501 (C) 3 corporation including its bylaws, Certificate of Incorporation and its Board of Directors' meeting minutes. We also examined the corporation's financial statements for calendar year 2000 which were audited by an independent certified public accountant, and we reviewed the work papers prepared by the certified public accountant in connection with the audit of these financial statements. In conjunction with the SUNY Research Foundation auditors, we reviewed the corporation's financial records and transactions to disentangle funds that had been commingled into one checking account. Further, we determined improper expenses from State grants, while the SUNY Research Foundation auditors determined disallowable expenses from federal grants, State entity donations and private contributions.

We attempted to secure the cooperation of the New York State Inspector General's Office to coordinate our respective audit and investigation efforts. We were not successful in these efforts and the State Inspector General's Office denied us access to both its interview results and documentation that it obtained under subpoena. Further, the State Inspector General's Office has not shared with us information concerning the results of its ongoing investigation despite our requests. The results of the investigation would likely be relevant to our audit, especially if the investigation identifies illegal activities or intentions related to our audit findings.

As is our routine practice, we requested a management representation letter in which agency management provides

assurances, to the best of their knowledge, concerning the relevance, accuracy and competence of the evidence provided to the auditors during the course of the audit. The representation letter is intended to confirm oral representations made to the auditors during the audit and to reduce the likelihood of misunderstandings. In the representation letter, agency officials assert that, to the best of their knowledge, all relevant financial and programmatic records and related data have been provided to the auditors. Agency officials further affirm that either the agency has complied with all laws, rules and regulations applicable to its operations that would have a significant effect on the operating practices being audited, or that any exceptions have been disclosed to the auditors.

However, the University Auditor informed us that SUNY would not provide a representation letter in connection with our audit. The University Auditor expressed specific reservations about the ability of SUNY to provide a representation letter for this particular audit and stated that government auditing standards do not require representation letters for performance audits such as the one we conducted at the Institute. (It is important to note that in the past SUNY has consistently provided a representation letter for all of our audits.) As a result of SUNY officials' unusual refusal to provide a standard representation letter, we lack assurances from SUNY officials that all relevant information was provided to us during the audit, or that oral representations provided during the audit were accurate. We consider the refusal to provide a representation letter to be a scope limitation on our audit. Therefore, readers of this report should consider the potential effect of this audit scope limitation on the findings and conclusions presented in this report.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of the Institute that are included in our audit scope. These standards also require that we understand the Institute's internal control structure and its compliance with those laws, rules and regulations that are relevant to Institute operations included in our audit scope. An audit includes examining, on a test basis, the evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe

that our audit provides a reasonable basis for our findings, conclusions and recommendations.

Internal Control and Compliance Summary

Our consideration of the Institute's internal controls identified weaknesses that are explained in the section of this report entitled "Use of Institute Funds." As a result of these weaknesses, certain funds made available to the Institute were expended in an inappropriate or questionable manner.

Response of SUNY Officials to Audit

A draft copy of this report was provided to SUNY officials for their review and comment. Their comments have been considered in preparing this report and are included as Appendix B.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Chancellor of the State University of New York shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

USE OF INSTITUTE FUNDS

State and federal grants and contracts and various procurement guidelines, statutes, rules and regulations provide a basis for determining appropriate use of funds by the Institute. Our audit, as well as the audit performed by the SUNY Research Foundation, identified numerous instances where Institute funds were used in an improper, questionable, wasteful and/or extravagant manner. (See Exhibit A for illustrations.) The misuse of funds is material in amount and reflects a failure of fiduciary responsibility for public funds and a disregard for taxpayer's interest. We conclude that one Institute official, the former Executive Director, is primarily responsible for the misuse of funds. He frequently used grants, donations and contributions to inappropriately pay for items that benefited him personally and were irrelevant to the Institute's purposes. He set the wrong tone for the control environment at the Institute and that tone permeated the operation of the Institute. We also conclude, however, that lack of oversight of the Institute and its independent 501 (C) 3 corporation by SUNY System Administration, a failure of governance by the Institute's Board of Directors and neglect of responsibility to the SUNY Research Foundation Board of Directors by the College "Operations Manager" were significant contributing factors to the problems that were experienced. In addition, inadequate internal controls for the Institute's financial practices contributed to the misuse of funds.

As shown in the chart that follows, we examined all of the $1,520,872 of expenses that were charged to the six State grants by the Institute during our audit period. Of this $1,520,872, we determined that $249,077 (16 percent) was improper and, therefore, not fundable from the State grants. We have previously provided details of these improper expenses to SUNY officials.

State Grant	Grant Amount	Grant Amount Expended	Grant Amount Improperly Expended	Percentage
NYSTAR (4 grants)	$1,400,000	$1,083,738	$176,437	16%
New York State Lottery	$500,000	*$175,917	$12,700	7%
Empire Development	$319,090	$261,217	$59,940	23%
Total	$2,219,090	$1,520,872	$249,077	16%

*Due to inaccurate reporting and undocumented results by the Institute, the Lottery has yet to make any payments on this grant. The College paid the improper expenses on behalf of the Institute.

On March 26, 2002, SUNY Research Foundation auditors informed us of their preliminary conclusions that about $1 million of the $ 3,108,476 of expenses charged to federal grants, State entity donations and private contributions were improper and, therefore, disallowable. In this regard, it should be noted that SUNY Research Foundation auditors consider State entity donations and private contributions as program income related to the federal Small Business Administration grants. Research Foundation auditors informed us that disallowable expenses would need to be reviewed and agreed to by the federal grant sponsors and that recovery of these costs would likely be made from the College through a repayment plan. (On June 12, 2002, subsequent to the completion of our audit fieldwork, SUNY Research Foundation auditors informed us that the status of their disallowance was still preliminary and the amount was unchanged.)

Unfortunately, the Institute's checking account has a zero balance and there are no funding mechanisms to reimburse the State for improper expenses determined from our audit. However, the Board of Directors of the Institute has liability insurance coverage for financial irregularities. We recommend that SUNY attempt to recover improper State grant expenses either from the former Executive Director or from the liability insurance of the Institute's Board of Directors. Since the misuse of funds is largely attributable to the malfeasance of a particular Board member, acting in his capacity as the Institute Executive Director, we also recommend that SUNY consider legal action to recover funds personally from this Board member.

Whether the misuse of funds constituted illegal acts on the part of responsible officials was something we did not conclude on as we presumed this would be addressed by the investigation of the New York State Inspector General. We did determine, however, that Institute officials provided fraudulent certifications so that about $333,000 could be double-billed to recover the same costs from both State and federal grants. In this regard, costs associated with four State grants were billed to federal Small Business Administration grants reportedly to expedite cash flow. Institute officials also charged these cost to the State grants and, in so doing, falsely certified that the costs had not been charged to another source. According to the former Chief Financial Officer of the Institute, the plan was that proceeds from the State grants would repay the federal grants. For example, when the Institute received the State grant monies, it would process a payment to the College to reimburse federal grants for expenses that these grants incorrectly paid on behalf of the Institute. We noted an instance where the amount of certain expenses coincided with the amount of a previously double-billed cost. While the Institute refunded some of the proceeds of the double billing in this manner, more than $157,000 was not refunded to the federal grants.

SUNY System Administration

The former College President's August 4, 1999 letter to the former SUNY Executive Vice Chancellor clearly conveyed the College's understanding that it had no supervisory relationship to the Institute and its independent 501 (C) 3 corporation. The letter stated the College's position that such responsibility, in fact, resided with the Executive Vice Chancellor and System Administration. The College "Operations Manager" told our auditors that the letter was written at his request because he learned of the impending change to the Institute's 501 (C) 3 corporation and he took this as a "red flag" because he knew this autonomous corporation would not fit into the control framework of the College and its Foundation. When we asked the former College President why she wrote the letter, she confirmed that she was concerned about how the activities of the Institute's 501 (C) 3 corporation would be supervised. The former Executive Vice Chancellor acknowledged receiving the letter. However, he pointed out that he did not act on it because it did not identify problems and was positive about the value of the corporation. He further indicated that he did not act

on the letter because he already had one person on his staff who was responsible for monitoring the Institute: the Managing Director of the Office of Entrepreneurial Partnerships.

Given that this letter came from a College President and stated understandings about important roles and responsibilities, we believe it would have been prudent for System Administration officials to respond in writing either confirming the understandings contained in the letter or explaining where these were incorrect. Moreover, we believe it reasonable to expect that the letter would have prompted System Administration to plan to look more closely at the activities of the "independent" 501 (C) 3 corporation especially since System Administration employed a Managing Director of Entrepreneurial Partnerships (Managing Director). Nevertheless, no written reply was provided and no specific follow up actions resulted. In addition, the Managing Director advised our auditors that he never saw the letter from the former College President and he thought that the College had been and continued to be responsible for the day-to-day monitoring of the Institute. This emphasizes the need that existed for System Administration to formally address the College President's understandings. Moreover, the Managing Director also served on the Board of Directors of the Institute's 501 (C) 3 corporation.

If System Administration had clarified the responsibility for supervising and monitoring the Institute and its 501 (C) 3 corporation and if there had been a plan for closer examination of this corporation, perhaps the previously discussed misuse of public funds could have been avoided or minimized. We conclude that the lack of such clarification and closer examination constitute a lack of necessary oversight on the part of System Administration.

Institute Board of Directors

Not-for-profit corporations in New York State are required by law to have a Board of Directors. The Directors are required to perform certain functions, which should be specified in the corporation's bylaws. According to the bylaws of the Institute's 501 (C) 3 corporation, "the business affairs and the activities of the Corporation shall be managed by its Board of Directors . . .the President shall be the chief executive officer of the Corporation, shall preside at all meetings of the Board of Directors, shall have general and active management of the

activities and the business of the Corporation [and] the Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and the Board of Directors at its regular meetings, or when the Board of Directors so require, an account of all his transactions as Treasurer and of the financial condition of the Corporation." We found that these stated responsibilities generally were not fulfilled. As a result, there was a failure of governance making it possible for the Executive Director to conduct Institute business in an unchecked manner without being held ultimately accountable or responsible.

Between August of 1999 and July 2001, the Board of Directors of the Institute met four times. We interviewed two Board members and reviewed Board meeting minutes to determine whether the Board presided over the corporation's business affairs as required. We found that, contrary to the bylaws, corporation funds were not disbursed or controlled by the Treasurer. Rather, the funds were disbursed at the direction of the Executive Director. Moreover, Board meeting minutes indicate no discussion of corporate financial information. One Board member told us that the financial reports relating to the corporation's activities were never shared with Board members, even though he consistently asked the Executive Director to provide copies of such reports. Had the Board properly discharged its responsibility for financial oversight of the Institute's 501 (C) 3 corporation, another measure would have been in place to reduce the risk of mismanagement of Institute funds.

College "Operations Manager"

The College "Operations Manager" stated that his monitoring and supervision of the Institute's use of Small Business Administration grants was minimal. He stated that when he reviewed the program progress reports prepared by the Institute, he looked only for grammatical errors and did not review them for content. This role appears to be in keeping with the July 1999 Administrative Services Agreement that the College entered into with the Institute. However, in accordance with guidelines established by the SUNY Research Foundation Board of Directors, the "Operations Manager" on a SUNY campus is accountable to the SUNY Research Foundation

Board of Directors for the Foundation's corporate business and administrative activities conducted on the campus.

To properly carry out the responsibilities of the "Operations Manager" as specified by the SUNY Research Foundation requires more, in our opinion, than just minimal monitoring. For example, we understand that, as a campus agent to the Research Foundation Board of Directors, the College "Operations Manager" had a responsibility to formally notify this organization of the change in status of the Institute's 501 (C) 3 corporation. Also, the "Operations Manager" served on the Board of Directors of the Institute's 501 (C) corporation and, therefore, had timely knowledge of the corporation's status as an entity independent from the College and the College Foundation.

However, the "Operations Manager" did not formally notify the SUNY Research Foundation when the Institute's 501 (C) 3 corporation became independent of the College and its Foundation. Had this been done, SUNY Research Foundation officials may have been prompted to consider whether the controls and activities of the independent 501 (C) 3 corporation were acceptable for assuring appropriate charges to grants obtained through the Research Foundation and used by the Institute. In fact, the corporation's independent status allowed the Institute to directly obtain and spend funds without having to process transactions and file reports that could have been monitored and scrutinized by the College and/or the "Operations Manager." This independence coupled with the previously discussed lack of SUNY System Administration oversight and failure of governance from the 501 (C) 3 corporation's Board of Directors, presented the Executive Director with the opportunity to improperly use grant funds, State entity donations and private contributions. The failure of the "Operations Manger" to formally apprize the SUNY Research Foundation of the independent status of the Institute's 501 (C) simply contributed further to this risk.

Given the problems arising through activity of the Institute's independent 501 (C) 3 corporation, we believe that SUNY System Administration should determine whether such independent corporations have been established at other campuses. In addition, SUNY System Administration must establish effective governance and accountability structures for such corporations. We further recommend that SUNY System

Administration should notify the Research Foundation of any such independent corporations involved with the management of Foundation grants.

Internal Controls

The Institute accounted for more than $5.3 million of College funds, charges to State and federal grants, State entity donation and private contributions between August 1, 1998 and June 30, 2001, while employing about 20 staff. An organization of this size should have internal controls that protect assets from theft and misuse. We conclude that the controls over Institute funds were poor. As a result, use of such funds for personal and unauthorized purposes was less likely to be prevented or detected.

An organization's internal control environment includes the attitude toward internal control and control consciousness established and maintained by management and employees. It is a product of management's philosophy, style and attitude, as well as the competence, ethical values, integrity, and morale of the organization's people. It is the foundation for all other internal control standards. The control environment at the Institute was poor primarily because the Executive Director, by his actions, did not demonstrate commitment to ethical values and integrity including honesty and fairness, respect for the organization, leadership by example, and recognition of an adherence to laws and policies. The example that he set would not convey to employees that accountability for public funds and regard for taxpayers' interests were important objectives of the Institute for which each employee had a responsibility. Moreover, lack of a good control environment can impair an organization's ability to accomplish its mission. As discussed in the section of this report entitled "Program Results," the Institute produced very few accomplishments consistent with its mission.

The communication of useful information between and among people and organizations is also an important internal control to ensure the correct functioning of an organization. However, at the Institute, staff were not allowed access to program budgets and they were not permitted to ask questions about financial matters. Instead, the Executive Director and the Chief Financial Officer expended grant monies as they determined appropriate without conferring with others. This weakness in internal control

discouraged the type of open communication that might have created awareness and reporting of the misuse of funds.

In addition, internal control activities must be practiced to prevent or detect misappropriation of assets. However, certain basic internal control activities were not practiced at the Institute. For example, dual signatures were not required on checks. Instead, the Executive Director; or the Executive Director's brother, the Chief Operating Officer, or the Executive Director's Assistant could individually sign Institute checks. Moreover, there were 18 checks payable to the Executive Director totaling $140,515 and three checks totaling $445 were made out to cash. Better assurances of protection for Institute assets could have been achieved by requiring dual signatures from appropriate officials. Effective July 2001, the Institute required dual signatures on checks.

Another typical internal control is to have charges to corporate credit cards reviewed and approved by someone other than the employee who incurred the charges. However, at the Institute, the Executive Director approved his own Institute credit card statement for payment. Over 600 of the Executive Director's credit card charges totaling over $45,000 were unsupported or were inappropriate. Independent review and verification of credit card charges may have detected this problem.

Other internal control weaknesses at the Institute that made funds susceptible to loss without timely detection included the following:

- Federal grant reimbursement checks were made payable to Institute employees as if the employees incurred the related expenses. This practice made checks vulnerable to misappropriation and required employees to sign checks over to the Institute for deposit.

- Institute funds were commingled into one account without distinction of funding source. This makes it very difficult to maintain accountability for specific funds and to detect misuse of funds.

Recommendations

1. Pursue either the former Executive Director or use of the liability insurance of the Board of Directors of the Institute as a means for obtaining recovery of State grant monies used for improper expenses.

2. Consider legal action to recover from the former Executive Director (who was also a former Institute Board member) the improper Institute expenses arising from his inappropriate actions.

3. Clarify SUNY policy and practices with respect to the establishment, monitoring and supervision of 501 (C) 3 corporations that are to operate as entities independent of SUNY in furtherance of SUNY goals. Establish effective governance and accountability structure for such corporations.

4. Determine where independent 501 (C) 3 corporations have been established at SUNY campuses and, where such corporations exist, determine that these operate in accordance with SUNY policy and practices and exhibit effective governance and accountability.

5. Alert the SUNY Research Foundation to the existence of independent 501 (C) 3 corporations that may be involved in the administration of Foundation grants.

6. Take steps to make sure that the leadership of the Institute creates a strong internal control environment.

7. Require appropriate independent review of all expenditures including Institute-billed credit card charges.

Recommendations (cont'd)

8. Designate the Institute, and not its employees, as the payee for grant reimbursements.

9. Provide separate Institute revenue and expenditure accountability for each grant.

10. Prohibit employees with System Administration oversight responsibility for entrepreneurial programs and initiatives from also participating in the management of these programs and initiatives.

PROGRAM RESULTS

Clear goals should be set for each of the Institute's major programs. Such clarity is provided when goals are stated as expected outputs (e.g. number of students served) and outcomes (e.g. number of successful businesses started). Measuring actual outputs and outcomes identifies the extent that program results met goals and helps to promote accountability for funds. We evaluated Institute program results, recognizing that some of the Institute's programs were inconsistent with the academic/research mission originally established for the Institute. We found that, while some program results achieved related goals, in many cases, the program results either did not achieve related goals or the results could not be evaluated in a meaningful way because goals were too vague. Moreover, reported program results were sometimes falsified. Overall, we conclude that the Institute has minimal program results to show for the $5.3 million that it spent between August 1, 1998 and June 30, 2001.

The program outputs for the Child Business Training and Assistance Program, which was administered jointly with the New York State Department of Labor, came very close to achieving contract goals for this program. The goal was for 72 current or former public assistance recipients to receive training that would help them start childcare businesses, and such training was provided to 68 current or former public assistance recipients. Another indicator of the successful results of this program was that, as of April 2001, 33 of the 68 participants were operating family childcare businesses providing care to a total of 95 children.

The Institute's two on-line instructional programs in entrepreneurship, BizTech and Entreskills, achieved some goals stated in their grant contracts, but did not achieve others. BizTech was the more successful of the two programs as 48 teachers were trained in the program curriculum (the contract goal was 35), 231 New York City high school students participated in the program (the contract goal was 230), and 1,045 students in the 14-county Appalachian Region of the State participated in the program (the contract goal was 1,100). However, only 29 internships were established for the program

when the contract goal was for 89 internships. Outcome goals were also established for the program (relating to the creation of a certain number of businesses or jobs), but program results for these goals either were not achieved or could not yet be evaluated, because the internships had not been completed at the time of our audit.

Under the Entreskills Program, the Institute and the School of Business of the SUNY University Center at Buffalo developed software and related materials for providing the program curriculum. According to the contract for this program, funding was not to be used to actually pay for students to participate. A Division of the Lottery grant was to cover this cost. According the Division of the Lottery grant, Entreskills was to be provided to 2,500 students. However, only 493 students signed up for the program and only 124 actually completed it. Moreover, when the Institute requested program reimbursement ($75 per student) from the Lottery, it falsely reported to Lottery that 604 students had completed the program. This was detected when the Division of the Lottery requested documentation supporting program results. According to the Institute's Interim Executive Director, there was a timing problem with the Entreskills Program because the program started in March and school was over by mid-June. It would have been better to start the program in September so that students would have a whole year to complete it instead of just a few months.

We determined that the on-line MBA program and the first E-Tour were generally unsuccessful programs. While the School of Management of the SUNY University Center at Buffalo did develop an entrepreneurial related on-line MBA program at a cost of $137,000 and did offer it to students as required by the grant contract, no students signed up for the program. According to the Assistant Dean of the School of Business, the program was not successful and has been terminated. We further noted that the Institute's report to the granting agency falsely stated that 30 students had signed up for the program.

The first E-Tour cost a total of $147,509 and was intended to promote entrepreneurship through development and broadcast of a television program highlighting successful entrepreneurs under the age of 30. However, these results were not achieved because a television program that was to broadcast on MTV or a similar station was never developed. A total of 32 interviews were videotaped on the seven-person, 12 state tour in the

Summer of 2000, but only 13 of the interviews were formatted for viewing, and only 4 of these were edited for development into a television program.

Two annual celebrations, the Awareness Campaign, the second E-Tour and the Institute membership program were all charged to the State NYSTAR grants at a total cost of $151,643. The stated goals of these programs and activities were to increase awareness of the Institute and promote entrepreneurship. However, goals stated in this manner are too vague to be useful for assessing program results for these costly, publicly funded initiatives. Similarly, the goals for two other programs, the $102,000 New York State Software Network and the $25,500 Jump Start Program, were also too vague for meaningful assessment of program results. Finally, it is difficult to determine what program results were accomplished with the $2.2 million that was charged to small business administration grants. Progress reports for the small business administration grants indicate that the funds were used to hire staff, create an Institute website, perform research, design and redesign the Institute logo and hold a conference for women. The initial small business administration grant discussed development of a Virtual Student Center, but this never happened. Once again, few expected outputs or outcomes are available as a basis for measuring program results and establishing specific accountability for funds.

In some respects, clear and meaningful goals can lessen the risk of misuse of funds because definite expectations are created for making every dollar count toward program results that meet goals. It appears likely that, if the Institute had established and properly measured the accomplishment of meaningful goals, there would have been less opportunity for inappropriate, wasteful and extravagant uses of funds to take place.

Recommendations

11. Establish and document clear and meaningful goals that specify measurable outputs and outcomes for all major Institute initiatives.

12. Routinely monitor program results by measuring and reporting accomplishment of Institute goals.

13. Ensure that program results are not misreported to sponsoring grantor agencies.

ONGOING OPERATIONS

As of June 30, 2001, the Institute had $2.7 million in unspent funds and employed 12 staff at an annual cost of about $561,000. We examined the Institute's operations to determine whether the Institute was viable to continue operating with this structure in the aftermath of the announced investigations and audits, the freeze on its hiring and program activities and the adverse publicity of recent months. We found that the Institute was not viable to continue operating as it had. We reached this conclusion because the Institute had more staff than it needed to support its present and foreseeable workload and because the Institute's reputation was seriously damaged by allegations of misconduct.

After the Summer of 2001, only the BizTech and Entreskills program continued to operate. Moreover, grant funding for Enstreskills expires in 2004 and grant funding for BizTech was to expire in July 2001. This workload was not enough to productively employ 12 staff. We observed the following in our analysis of the workload of Institute staff:

- One Program Coordinator and one full-time support staff person were assigned to Entreskills. The Program Coordinator, who is paid $31,000 annually, informed us that a part-time support staff position was sufficient to answer the telephone and respond to e-mail questions from the schools participating in the program. The full-time support staff person, who is paid $77,381 annually, used to be the Executive Director's Assistant. We reviewed records relating to a week of work for this individual and found that she received six telephone calls and twenty e-mails from Entreskills participants. Most of the questions were answered by brief, easily determined responses, such as supplying program access codes and other basic information.

- One Program Coordinator is assigned to BizTech. She works from an office in Painted Post, which is located in the 14-county Appalachian Region of New York. She informed us that her daily activities include answering questions over the phone and visiting schools to monitor

the BizTech Program. She stated that most of the questions are technical in nature and she refers these to the hot line established by the commercial vendor that created the program software.

- One Institute staff member was actually working at the Division for Women effective June 2001. According to a Memorandum of Understanding between the Institute and the Division for Women, the individual works at the discretion of the Division's Director focusing on Division priorities and the Division's mission. In return, the individual is to keep the Institute informed of women's needs for education, business and entrepreneurship.

- The eight remaining staff, including the Interim Executive Director, have administrative and support duties, and are not assigned to a specific program. For example, the Program Director for Special Projects, who is paid $40,000 annually, told us that her main responsibilities include monitoring and resolving program issues. (She also stated that neither of the remaining programs have many problems that need to be resolved.) An Administrative Assistant, who is paid $31,000 annually, told us that her workload was limited and she was experiencing a lot of downtime during which she was advancing her web page development skills to keep busy.

We therefore conclude that the Institute does not have the workload to justify a 12-person staff. In particular we question the need for so many administrative and support staff. We also question the appropriateness of the arrangement with the Division of Women; if that individual is to work for the Division, the Division should pay for her services.

Also, we were told by the College Vice President for Administration that a major partner of the Institute, the SUNY University Center at Buffalo, severed all contracts with the Institute because University Center officials no longer wanted to be associated with the Institute. Clearly, the reputation of the Institute is impacting its ability to remain viable.

During our audit we recommended that SUNY develop a staffing plan for the Institute that is commensurate with the Institute's workload. On January 4, 2002, SUNY officials announced that

a new staffing plan was being considered for the Institute as part of larger changes that might be made in the Institute's organizational structure. The College President and the SUNY Vice Chancellor for Business and Industry Relations prepared an internal report on this matter to the SUNY Chancellor. The report, which SUNY made public, confirmed our conclusion that it was not viable to operate with the existing Institute structure. The report stated that the Institute should be immediately absorbed into another program that supports small business activities (SUNY's Small Business Development Centers). Also the report stated that the Institute's mission should be refocused to a core academic mission geared to research and development of certificate and degree granting programs designed to promote small business and entrepreneurship in New York State. According to the report, a new staffing and organization plan for the Institute would be implemented by January 31, 2002.

However, despite our requests, as of June 12, 2002, SUNY officials had yet to provide specific plans to implement the changes outlined in report announced in January 2002. As a result, the Institute continues to exist with a discredited reputation and more staff than it needs for its remaining programs. We recommend that SUNY officials expedite their reorganization plans for the Institute.

Recommendations

14. Expedite implementation of the reorganization plans announced by SUNY for the Institute.

15. Develop a staffing plan that is commensurate with the workload for the reorganized Institute.

16. Either reassign the position loaned to the Division for Women, or stop funding the position.

Use of Institute for Entrepreneurship Funds
In An Improper, Questionable, Wasteful And/Or Extravagant Manner

The Executive Director improperly received a $95,000 bonus.	In early 2001, the Executive Director improperly received a $95,000 bonus to supplement his $134,254 base salary from the State in violation of the bylaws of the Institute's 501 (C) 3 corporation. The majority vote, as prescribed by the Institute's bylaws, was not obtained when the bonus was proposed at a Board meeting. An Administrative Assistant prepared the minutes to reflect this outcome. Thereafter, the Executive Director reportedly instructed the Administrative Assistant to revise the Board's meeting minutes to indicate that the necessary approval vote had been obtained. The Executive Director explained to the Administrative Assistant that a member of the Board, who would not provide the necessary vote to affirm the bonus at the meeting, changed his mind after the meeting. In fact, there is no record that anyone changed their position and the person whose vote was needed to affirm the bonus left the meeting refusing to affirm the bonus. Reportedly, the Executive Director told the Administrative Assistant to lock up the revised minutes and to not discuss the matter with anyone.
The Executive Director used his Institute-billed credit card for $18,500 of personal purchases.	The Executive Director used his Institute-billed credit card to make about $18,500 of purchases that were personal and unrelated to Institute business. These included prescriptions for his wife ($177)*, horse mats ($1,656)*, men's suits ($1,100), meals at restaurants close to his residence ($4,700), airplane tickets to Florida for himself and his daughter, and meal and travel costs while he was on annual leave with his wife in Florida ($5,747).
The Executive Director misspent $3,000 for travel.	Without written support or justification, the Executive Director used $3,000 of Institute funds to pay for two trips to China for his father. The Executive Director's father is not an employee of the Institute.

*Information pertaining to these items was obtained from the SUNY Research Foundation auditors and their audit has not been finalized.

Exhibit A

The Executive Director did not repay $4,600.	Records indicate that the Executive Director wrote two checks payable to his name totaling $3,000 and provided a notation indicating that funds would be reimbursed. Moreover, the Executive Director obtained a $1,600 cash advance on his Institute-billed credit card without indicating the related purpose. The Executive Director did not reimburse these expenditures.
A pavilion purchased by the Institute was unaccounted for.	The Executive Director approved the purchase of a 20-foot by 40-foot pavilion (tent). There was no documentation available to indicate that this pavilion was for Institute purposes. The pavilion was reportedly kept at the Executive Director's home.
The Executive Director hired his daughter and her boyfriend at a cost of over $6,000.	The Executive Director sought to hire and put his daughter and her boyfriend on the Institute payroll, but College officials refused this. Subsequently, the Executive Director hired his daughter and her boyfriend as private contractors paid through the 501 (C) 3 corporation. Each signed an agreement to perform duties to support the Institute in return for $120 biweekly. Between August 25, 2000 and June 26, 2001, the daughter received $3,070 and her boyfriend received $3,160. The former Chief Financial Officer informed us that there were no job descriptions or timesheets for either the daughter or her boyfriend. Many (6 of 13) of the employees we spoke with at the Institute remember seeing these individuals only on few occasions, but they did not know who might have supervised them.
NYSTAR expenditures totaling $61,437 were not adequately documented.	We found $61,437 of expenditures charged to NYSTAR grants that were not adequately documented to justify the use of the funds. This included $4,000 paid to an auto speedway, $6,819 in travel expenses for the first E-Tour, $15,000 for marketing/advertising services and $5,000 for legal fees. (In the section of this report entitled "Program Results," the lack of overall results from the E-Tour is discussed.)

Expenditures totaling $154,552 were not authorized by NYSTAR grants.	Expenditures totaling $154,552 made with NYSTAR funds were not authorized under the grants. For example, the grants permitted only marketing, legal or accounting services to be reimbursed, but the Institute charged $34,000 for unspecified "consulting services." Our follow up showed that $14,000 was paid to one contractor to help plan an annual celebration and $20,000 was paid to another for lobbying services to help obtain federal funds. A former and now deceased Congressman, Gerald Solomon, owned the company providing the lobbying services and we were told that Congressman Solomon was responsible for obtaining the initial funding for the Institute.
E-Tour expenses charged to one NYSTAR grant were extravagant.	One NYSTAR grant was charged at least $147,509 for the first E-Tour. The expenses covered a kick-off event and costs to send seven Institute representatives on a trip across 12 states over a 45-day period to interview 32 entrepreneurs. The travelers included one Institute employee and six college students the majority of which were related to Institute staff or high-ranking government officials. While E-Tour was consistent with the grant's intentions, we question the need for so large a group to travel so long at such a taxpayer expense.
The cost of an annual celebration was excessive.	A November 1999 annual celebration charged to a NYSTAR grant in the amount of $91,430 had been budgeted for $20,000 in the grant contract. Included in the charges were $19,500 for catering, $15,000 for teleconferencing, $25,000 for advertising, $16,000 for videotaping, and $6,000 for promotional items. The celebration yielded $84,350 in donations. In contrast, the following year's celebration cost $28,616 and raised $84,000 in donations.
Some costs charged to grants were fraudulent.	Some costs charged to grants were never incurred at all and were simply fraudulent. For example, the Empire State Development Grant was charged $4,975 to provide for free tuition for the University Center at Buffalo's on-line MBA program for entrepreneurship. However, officials at the University Center informed us that nobody participated in the program and it was discontinued. In another instance, the grant was charged $1,911 for 39 student memberships to the Institute. However, thousands of other memberships were issued for free and there was no support for any membership costs related to the 39 students.

Conflict of interest may have been involved in certain transactions.	The Executive Director approved the Institute's purchase of a recreational vehicle from a vendor. The particular vehicle purchased had belonged to the Executive Director. The Institute paid $64,000 for this item and then sold it back to the same vendor less than a year later for $38,000, resulting in a $26,000 loss. The Institute had only added 12,000 miles to the vehicle. These facts suggest that these series of transactions may have yielded a personal benefit to the Executive Director and to the detriment of the Institute. The Executive Director's involvement in the purchase and resale of a vehicle he once owned, at a minimum, presented the appearance of a conflict of interest.
The housing allowance for the Executive Director was highly unusual and extravagant.	The Executive Director's employment agreement with the Institute provided for an annual $10,000 housing allowance. At the Executive Director's request and with the unanimous approval of the Board of the Institute's 501 (C) 3 corporation, the Executive Director received a housing allowance increase to $24,000 annually. In total, the Executive Director received $48,000 as a housing allowance from January 2000 to February 2001. We consider this highly unusual and extravagant.
Other miscellaneous charges to grants were excessive.	Excessive and extravagant charges to NYSTAR and Empire State Development grants also included $2,404 for neck straps, $1,119 for computer disc cases, $2,336 for L.L. Bean fleece shirts, $684 for extra brief cases and $6,102 for 101 unneeded software licenses.

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August 12, 2002

Mr. Jerry Barber
Audit Director
Division of Audits and Accounts
Office of the State Comptroller
110 State Street
Albany, NY 12236

Dear Mr. Barber:

Re: Office of State Comptroller ("OSC") Draft Audit Report 2001-S-46

In accordance with Section 170 of the Executive Law, we are responding to your letter of July 12, 2002 to Chancellor King that accompanied the subject draft audit.

Aside from some factual errors, which are not material to the substance or findings of the report, and about which you may contact the Assistant University Auditor, we are essentially in agreement with the findings of the report and find the recommendations useful and constructive.

We do, however, question the report's characterization of our decision not to provide OSC with a so-called representation letter. As you stated in the report, representation letters are not provided in performance or economy/efficiency audits. That is because professional auditing standards state that representation letters are relevant only to audits of financial statement information prepared by the party being audited, or to circumstances where the party being audited has made or been requested to make written assertions that can be audited. Neither circumstance is relevant to this audit.

* Note

Professional auditing standards do not prescribe representation letters in these circumstances. Therefore, this decision by SUNY System Administration was taken only after due consideration of the audit methodology employed by OSC, and after reference to generally accepted auditing and government auditing standards.

* See State Comptroller's Note, Appendix C

Appendix B

On a practical note, as your audit suggests, certain materials, including hard copy files, were gathered from the Institute in July 2001 by the Office of the New York State Inspector General ("IG"). These files have not been available to your auditors or to SUNY auditors. Accordingly, there may be additional evidence in those files about which we have no familiarity or control.

Two other points may be useful. First, as noted in the report, the number of employees at the Institute dropped from twenty to twelve by the time of your audit. The number of employees currently engaged has dropped to four. Some of the Institute's functions have now been integrated into the operations of the Small Business Development Center.

Second, following the Campus's discovery of inappropriate practices within the Institute, we took immediate and thorough steps to submit our initial findings to the IG and an investigation was pursued upon our request. Additionally, at our request, the Research Foundation of State University of New York has conducted a thorough financial audit of the Institute.

Very truly yours,

Kevin O'Donoghue
University Auditor

Copy: Chancellor King
President Moore
Mr. Diesel
Mr. Edwards
Mr. Miller

State Comptroller's Note

SUNY officials are incorrect when they state that representation letters are not provided in performance audits and, that representation letters are relevant only to financial statement audits. Section 6.55 of the Government Auditing Standards (Field Work Standards for Performance Audits) clearly states that auditors may find it useful to obtain written representations concerning the competence of the evidence they obtain. Written representations ordinarily confirm oral representations given to auditors, indicate and document the continuing appropriateness of such representations, and reduce the possibility of misunderstanding concerning the matters that are the subject of the representations.

As is our long-standing policy for all audits, we requested that SUNY officials provide us with a management representation letter in which officials provide assurance, to the best of their knowledge, concerning the relevance, accuracy and completeness of the evidence provided to our auditors during the course of our audit. While SUNY officials have consistently provided such representation letters to us in connection with our previous audits, they refused to do so for this audit, thereby creating an audit scope limitation.